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EXAMINER	
KING, CURTIS J	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/546,621	PARHOFER ET AL.	
	Examiner	Art Unit	
	CURTIS KING	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 August 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) filed on 23 August 2005 and 5 October 2007 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the Foreign Patent Documents and Non-Patent Literature Documents that the Examiner lined through in the IDS were not provided in English. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
(1) Field of the Invention.
(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Portable biometric scanning device for identification verification

3. The abstract of the disclosure is objected to because:

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text (i.e., the title of the invention should not be on the same sheet as the abstract of the disclosure). Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "ident" in claim 1 is a relative term which renders the claim indefinite. The term "ident" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the ident medium cannot be a mobile phone. It appears from Applicant specification that the ident medium is housed in an accumulator cell of a mobile phone.

Regarding claim 8, the phrase "the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 12 recites the limitation "the system" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-6, 8-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2).

1) In regard to claim 1, Ishikura discloses A device for securely identifying persons and for permitting or denying a logical and/or physical access to a target means, comprising a portable ident medium (fig. 2: discloses as mobile transmitter) having at least one biometric sensor (fig. 2: 11), at least one input element (fig. 2: 18) and at least one output element (fig. 2: 17), a processor (fig. 2: 13a) having a memory (fig. 2: 12) and a software (col. 3 lines 13-22 discloses the device uses a system-specific identifier using a predetermined encoding method, hence, the device has software) as well as a transmitting and receiving electronic (fig. 2: 14a and col. 5 lines 55-60) and a counter station (fig. 2: 21 discloses as receiver), which is arranged at the target means (fig. 2 discloses the receiver is located at the vehicle) or cooperates with said station having, a reading and evaluating electronic (fig. 2: 51 discloses as verification unit) for checking the authorization of the ident medium (col. 3 lines 15-17, col. 4 lines 63-67 and col. 5 lines1-2), an actor (fig. 2: 23 discloses as a door lock/unlock control unit) and a memory (fig. 2: 34 discloses as fingerprint information holding unit),

wherein an alternating magnetic field is generated for encoded (col. 6 lines 37-48 discloses that the mobile device transmits data on a modulated radio wave: it is well known in the art of radio communication that an electromagnetic field is produced when an electron in a wire is accelerated and decelerated, thus, creating an alternating magnetic field), bidirectional data exchange or for conducting a challenge response (col. 5 lines 55-60 discloses that the radio communication unit located on the mobile transmitter can receive data indicating the selection of information to be verified, thus, bidirectional data exchange is performed), and wherein ident medium and/or counter station are programmable (col. 7 lines 39-61 discloses that the user can select which information is used for verification, hence, the device is programmed).

Ishikura does not disclose wherein an alternating magnetic field is generated for encoded, bidirectional data exchange or for conducting a challenge response, signals in the low frequency range are sent and wherein ident medium and/or counter station are programmable.

Masudaya discloses a portable device where signals in the low frequency range are sent (Masudaya col. 5 lines 61-67 and col. 6 lines 1-7 discloses a keyless entry device that transmits and receives low frequency signals).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura keyless entry device with low frequency transmit and receive devices, as taught by Masudaya. The combination of Ishikura in view of Masudaya would yield to the claim limitation "an alternating magnetic field is generated for encoded, bidirectional data exchange or for conducting a challenge response,

signals in the low frequency range are sent and wherein ident medium and/or counter station are programmable".

The motivation would be to take advantage of Ionospheric propagation, which occurs at low frequency, thus, increasing the operating range of the device during the evening hours.

2) In regard to claim 2 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the biometric sensor is a finger print sensor (Ishikura fig. 2: 11 discloses a fingerprint sensor).

3) In regard to claim 3 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the sensor is a sensor operating optically, capacitively, thermally or with radio waves (col. 6 lines 33-37 discloses the fingerprint sensor captures fingerprint information, hence, it is interpreted that the fingerprint sensor captures a digital image, thus, the sensor operates optically).

4) In regard to claim 4 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the sensor is an area or strip sensor (Ishikura col. 4 lines 3-7).

5) In regard to claim 5 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the input element is a key or a keyboard (Ishikura col. 7 lines 39-46 discloses that the user selects what information is going to be verified through the operation unit, hence, it is inherent there is a keypad (keyboard) that the user inputs into).

6) In regard to claim 6 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the output element is a LED and/or a display (Ishikura col. 7 lines 58-61).

7) In regard to claim 8 (which is dependent on claim 1), Ishikura in view of Masudaya discloses the device according to claim 1.

Ishikura and Masudaya does not disclose wherein said device is made such that the alternating magnetic field can pervade walls, doors, safes as well as steel, metal, armoring and the like.

However, it is well known that magnetic fields have the capability of penetrating walls, doors, safes as well as steel, metal, armoring and the like.

8) In regard to claim 9 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the actor comprises a solenoid, motor, processor, software program or the like (col. 5 lines 16-24 discloses a signal sent to the door lock/unlock unit in which locks and unlocks the door, hence, it is inherent that the door lock/unlock unit has some type of actuating means).

9) In regard to claim 10 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein the actor is in cooperation with a locking element or a clutch element and releases or engages said element (Ishikura fig. 2: 23 discloses a door lock/unlock control unit, hence, it is inherent that element 24 is in cooperation with a locking element).

10) In regard to claim 13 (which is dependent on claim 1), Ishikura in view of Masudaya further discloses the device according to claim 1, wherein ident medium and

counter station are wirelessly programmable (Ishikura col. 8 lines 22-67 discloses how the device can be delete and receive information from the user of the device, thus, the device can be wirelessly programmed).

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Hirano (Pat. No. 4,973,958).

1) In regard to claim 7 (which is dependent on claim 1), Ishikura in view of Masudaya discloses the device according to claim 1.

Ishikura in view of Masudaya does not disclose the device according to claim 1, wherein said device is made such that the alternating magnetic field has a reach of up to about 2.5 m.

However, Ishikura and Masudaya are directed to a keyless entry system for a vehicle, thus, it is well known in the art of keyless entry systems for the device magnetic field to operate around 2.5m. Furthermore, Hirano discloses a device wherein the device is made such that the alternating magnetic field has a reach of up to about 2.5 m (Hirano col. 2 lines 55-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya keyless entry device to radiate an alternating magnetic field that has a reach of about 2.5m or a reach of a conventional systems or known system as taught by Hirano as a design choice.

The motivation would be so that the user of the device is in visual view of the vehicle when the device is in use.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Gauthey (PG-Pub. No. 2004/0113819 A1).

1) In regard to claim 11 (which is dependent on claim 1), Ishikura in view of Masudaya discloses the device according to claim 1.

Ishikura in view of Masudaya does not disclose the device according to claim 1, wherein the ident medium is an accumulator cell of a mobile phone.

Gauthey discloses a device wherein the ident medium is an accumulator cell of a mobile phone (Gauthey ¶0014 discloses a portable identification device may be a mobile phone, thus, the ident medium is an accumulator cell of a mobile phone).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya keyless entry device to be inserted in a mobile phone accumulator cell, as taught by Gauthey.

The motivation would be to provide to the user of the device with a more durable casing for the device.

10. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Tatsukawa (Pat. No. 6,710,700 B1).

1) In regard to claim 12 (which is dependent on claim 1), Ishikura in view of Masudaya discloses the device according to claim 1 and the system ("the system" is being interpreted as the ident medium and counter station).

Ishikura in view of Masudaya does not disclose the device according to claim 1, wherein the system comprises a battery or an accumulator cell and/or can be charged directly.

Tatsukawa discloses a device wherein a system comprises a battery that can be charged directly (Tatsukawa fig. 2: 14 and 24 discloses a rechargeable battery and battery).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya keyless entry device with the inclusion of a rechargeable battery, as taught by Tatsukawa.

The motivation would be that during the useful life of the device the user of the device would not have to buy a battery for the device, thus, decreasing maintenance cost of the device.

2) In regard to claim 14 (which is dependent on claim 1), Ishikura in view of Masudaya and Tatsukawa further discloses the device according to claim 1, wherein ident medium and/or counter station are locally or battery supplied (Tatsukawa fig. 2: 14 and 24 discloses a rechargeable battery and battery).

11. Claim 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Hamid (Pat. No. 7,111,174 B2).

1) In regard to claim 15 (which is dependent on claim 1), Ishikura in view of Masudaya discloses the device according to claim 1, wherein the processor of the ident

medium comprises a decentralized data base (Ishikura fig. 2: 12) being specific for the ident medium (Ishikura col. 3 lines 13-17).

Ishikura in view of Masudaya does not disclose the device according to claim 1, wherein the processor of the ident medium comprises a decentralized data base being specific for the ident medium, having memorized biometric data.

Hamid discloses a portable biometric device having a storage device that stores memorized biometric data (Hamid fig. 1: 112 and col. 5 lines 63-65 and col. 6 lines 33-41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya device with a storage device containing memorized biometric information of the user of the device, as taught by Hamid. The combination of Ishikura in view of Masudaya and Hamid would yield to the claim limitation "wherein the processor of the ident medium comprises a decentralized data base being specific for the ident medium, having memorized biometric data".

The motivation would be to provide additional security to the user of the device, so that information of the user of the device is not transmitted through radio waves in which it would be possible for someone to receive and decode the user information.

2) In regard to claim 16 (which is dependent on claim 15), Ishikura in view of Masudaya and Hamid further discloses the device according to claim 15, wherein the data base can be changed via the ident medium (Hamid col. 6 lines 66-67 and col. 7 lines 1-10 discloses that a user can provide his/her biometric information to the

biometric device, hence, the memory (database) of the biometric device can be changed via the biometric device).

12. Claims 17-27, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Lash (PG-Pub No. 2002/0158776 A1).

1) In regard to claim 17, Ishikura discloses a method for securely identifying persons and permitting or denying logical and/or physical access to a target means, comprising the steps of identifying a user by means of a portable ident medium (fig. 2: discloses as mobile transmitter used to identify a user), wherein biometric data of at least one user are detected by at least one biometric sensor and data and/or orders are entered via at least one input element and operating conditions are output via at least one output element (fig. 2: 11 discloses a fingerprint sensor), and wherein a comparison of the detected biometric data with the memorized biometric data is performed by means of a processor having a memory and a software (col. 6 lines 66-67 and col. 7 lines 1-8), comprising a decentralized data base being specific for the ident medium and having memorized biometric data (fig. 2: 37 and 39) checking the authorization of the ident medium or the signal transmitted by the counter station by means of a reading and evaluating electronic (col. 7 lines 16-23) and permitting or denying of a logical and/or physical access to a target means by means of an actor (col. 7 lines 24-38)

Ishikura does not disclose that the method transmitting of a signal in the low frequency range via an alternating magnetic field in a bidirectional data exchange or via a challenge response by means of a transmitting and receiving electronic after

successfully identifying an authorized user to a counter station being located at a target means or being in cooperation with said counter station and recording date, time, identification of the ident medium and/or the user for each action.

Masudaya discloses a keyless entry apparatus that accomplishes transmitting of a signal in the low frequency range via an alternating magnetic field in a bidirectional data exchange or via a challenge response by means of a transmitting and receiving electronic after successfully identifying an authorized user to a counter station being located at a target means or being in cooperation with said counter station (Masudaya col. 5 lines 61-67 and col. 6 lines 1-7 discloses a keyless entry device that transmits and receives low frequency signals).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura keyless entry device with low frequency transmit and receive devices, as taught by Masudaya. The combination of Ishikura in view of Masudaya would yield to the claim limitation "an alternating magnetic field is generated for encoded, bidirectional data exchange or for conducting a challenge response, signals in the low frequency range are sent and wherein ident medium and/or counter station are programmable".

The motivation would be to take advantage of Ionospheric propagation, which occurs at low frequency, thus, increasing the operating range of the device during the evening hours.

Ishikura and Masudaya does not disclose recording date, time, identification of the ident medium and/or the user for each action.

Lash discloses keyless entry device that accomplishes recording date, time, identification of the ident medium and/or the user for each action (Lash ¶0086).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya to include the step of recording the date and time the device was used, as taught by Lash.

The motivation would be to provide a record of who enters and exits an entrance with the device, as taught by Lash (¶0086).

2) In regard to claim 18 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein ident medium and/or counter station are programmable (Ishikura col. 7 lines 39-61 discloses that the user can select which information is used for verification, hence, the device is programmed).

3) In regard to claim 19 (which is dependent on claim 18), Ishikura, Masudaya and Lash further discloses the method according to claim 18, wherein ident medium and/or counter station are wirelessly programmable (Ishikura col. 7 lines 39-61 discloses that the radio communication unit transmits the data).

4) In regard to claim 20 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the data base can processed or changed via the ident medium by memorizing, deleting and/or processing further biometric data (Ishikura col. 8 lines 24-48).

5) In regard to claim 21 (which is dependent on claim 20), Ishikura, Masudaya and Lash further discloses the method according to claim 20, wherein the processing of the data base is made off-line, i.e., directly via the ident medium (Ishikura col. 9 lines 1-6).

6) In regard to claim 22 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the detection of the biometric data is performed by means of a fingerprint sensor which detects fingerprints according to an optical or capacitive method (Ishikura fig. 2: 11 discloses a fingerprint sensor and col. 6 lines 33-37 discloses the fingerprint sensor captures fingerprint information, hence, the fingerprint sensor captures a digital image, thus, the sensor operates optically).

7) In regard to claim 23 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the sensor operates optically, capacitively, thermally or with radio waves (Ishikura col. 6 lines 33-37 discloses the fingerprint sensor captures fingerprint information, hence, the fingerprint sensor captures a digital image, thus, the sensor operates optically).

8) In regard to claim 24 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the input is performed by means of a key or a key board (Ishikura col. 7 lines 39-46 discloses that the user selects what information is going to be verified through the operation unit, hence, it is inherent there is a keypad (keyboard) that the user inputs into).

9) In regard to claim 25 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the output is effected by means of a LED and/or a display (ishikura col. 7 lines 58-61).

10) In regard to claim 26 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the actor is a solenoid, motor, processor, software program or the like (Ishikura col. 5 lines 16-24 discloses a signal sent to the door lock/unlock unit in which locks and unlocks the door, hence, it is inherent that the door lock/unlock unit has some type of actuating means).

11) In regard to claim 27 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the biometric detection can be switched off by the authorized user (Ishikura col. 9 lines 7-24).

12) In regard to claim 30 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the identification attempts and/or actions as well as accesses and/or the inhibited or denied accesses are recorded by at least one processor (Lash ¶0086).

13) In regard to claim 32 (which is dependent on claim 17), Ishikura, Masudaya and Lash further discloses the method according to claim 17, wherein the correct entering of a PIN is necessary for identification (Lash ¶0072).

13. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and further in view of Lash (PG-Pub No. 2002/0158776 A1) and further in view of Hamid (Pat. No. 7,111,174 B2).

1) In regard to claim 28 (which is dependent on claim 17), Ishikura, Masudaya and Lash discloses the method according to claim 17.

Ishikura, Masudaya and Lash does not disclose the method according to claim 17, wherein it is not only distinguished between authorized and non-authorized users, but furthermore between users having different authorizations or different authorization hierarchies.

Hamid discloses an access system wherein the wireless access device is not only distinguished between authorized and non-authorized users, but furthermore between users having different authorizations or different authorization hierarchies (Hamid col. 6 lines 42-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura, Masudaya and Lash device with the step of determining the level of privileges of the user using the device, as taught by Hamid. The combination of Ishikura, Masudaya, Lash and Hamid would yield to the claim limitation "the method according to claim 17, wherein it is not only distinguished between authorized and non-authorized users, but furthermore between users having different authorizations or different authorization hierarchies".

The motivation would be to provide an additional feature to the device so as to allow access only to the things needed for a particular user and more to another user.

2) In regard to claim 29 (which is dependent on claim 28), Ishikura, Masudaya, Lash and Hamid further discloses the method according to claim 28, wherein the reaction of the counter station depends on the authorization or the hierarchy of the user (Hamid col. 7 lines 36-48).

14. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and) and further in view of Lash (PG-Pub No. 2002/0158776 A1) and further in view of Tatsukawa (Pat. No. 6,710,700 B1).

1) In regard to claim 31 (which is dependent on claim 17), Ishikura, Masudaya and Lash discloses the method according to claim 17.

Ishikura, Masudaya and Lash does not disclose the method according to claim 17, wherein the ident medium and/or the counter station are locally or battery supplied.

Tatsukawa discloses wherein the ident medium and/or the counter station are locally or battery supplied (Tatsukawa fig. 2: 14 and 24 discloses a rechargeable battery and battery).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura and Masudaya keyless entry device with the inclusion of a rechargeable battery, as taught by Tatsukawa.

The motivation would be that during the useful life of the device the user of the device would not have to buy a battery for the device, thus, decreasing maintenance cost of the device.

15. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikura (Pat. No. 6,940,391 B1) in view of Masudaya (Pat. No. 6,707,375 B2) and) and further in view of Lash (PG-Pub No. 2002/0158776 A1) and further in view of Braun (PG-Pub. No. 2006/0026672 A1).

1) In regard to claim 33 (which is dependent on claim 17), Ishikura, Masudaya and Lash discloses the method according to claim 17.

Ishikura, Masudaya and Lash does not disclose the method according to claim 17, wherein the user-specific data memorized in the data base are assigned to a hierarchy, wherein ident medium and/or counter station only permit defined actions according to the hierarchy level of the identified user.

Braun discloses a key fob wherein the user-specific data memorized in the data base are assigned to a hierarchy, wherein ident medium and/or counter station only permit defined actions according to the hierarchy level of the identified user (Braun ¶0042).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikura, Masudaya and Lash with a memory that permits different functions depending on the hierarchy of a user in the memory, as taught by Braun.

The motivation would be to limit access of certain features to a group of users, as taught by Braun (¶0003).

Double Patenting

16. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

17. Claims 1-7 and 13-16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3-12 of copending Application No. 11/955.833. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reason.

Application claim 1 is met by co-pending claims 1 and 3, except specifying that the device comprises a counter station, which is arranged at the target means or cooperates with said station having, a reading- and evaluating electronic for checking the authorization of the ident medium, an actor and a memory, wherein an alternating

magnetic field is generated for encoded, bidirectional data exchange or for conducting a challenge response, signals in the low frequency range are sent and wherein ident medium and/or counter station are programmable.

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to modify the device to include a counter station to verify the signal sent from the ident device and being coupled to the ident device through electromagnetic waves.

The motivation would be so as to allow the ident device to send a signal to a device to allow a user access to that device.

The remaining claims 2-7 and 13-16 are met by the combination of copending claims 1 and 3-12. Since the copending claims are directed to the same invention, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to combine them for their added effect.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

18. Claims 17, 20, 22-25, 28, 30, and 32-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 19 and 22-30 of copending Application No. 11/955,833. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reason.

Application claim 17 is met by co-pending claim 19, except specifying transmitting of a signal in the low frequency range via an alternating magnetic field in a bidirectional data exchange or via a challenge response by means of a transmitting and receiving electronic after successfully identifying an authorized user to a counter station being located at a target means or being in cooperation with said counter station; checking the authorization of the ident medium or the signal transmitted by the counter station by means of a reading and evaluating electronic; permitting or denying of a logical and/or physical access to a target means by means of an actor; and recording date, time, identification of the ident medium and/or the user for each action.

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to modify the method to include the step of transmitting a signal in the low frequency range to a counter station to allow access to a gadget and record the date and time of the event.

The motivation would be so that the device can be used to securely access private belongings.

The remaining claims 20, 22-25, 28, 30, and 32-33 are met by the combination of copending claims 19 and 22-30. Since the copending claims are directed to the same invention, it would have been obvious to one of ordinary skill in the art at the time of the claimed invention to combine them for their added effect.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) Mc Call, US pg-pug 2006/0294393 A1

-- A similar access device

2)Hanood, US pg-pub 2004/0143437 A1

-- A similar access device

3) Fitzgibbon et al., US pg-pub 2004/0257199 A1

-- A similar access device

4) Itsumi et al., US pat. 5,745,046

-- A similar access device

5) Tanaka et al., US pat. 7,359,696 B2

-- A similar access device

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CURTIS KING whose telephone number is (571)270-5160. The examiner can normally be reached on Mon-Thurs 7:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin C. Lee can be reached on (571)272-2963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ck/

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